

AVIATION

Transport Services

Agreement Between the UNITED STATES OF AMERICA and LUXEMBOURG

Amending the Agreement of August 19, 1986,
as Amended

Effected by Exchange of Notes
Signed at Washington July 13 and 21, 1998

with

Annexes



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

LUXEMBOURG

Aviation: Transport Services

*Agreement amending the agreement
of August 19, 1986, as amended.
Effected by exchange of notes
Signed at Washington July 13 and 21, 1998;
Entered into force June 12, 2003.
With annexes.*

DEPARTMENT OF STATE
WASHINGTON-

July 13, 1998

Excellency:

I have the honor to refer to the Air Transport Agreement between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg, signed at Luxembourg August 19, 1986, as amended by an exchange of notes at Washington dated June 6, 1995 ("The Agreement").

I have the further honor to propose to Your Excellency that the Agreement be further amended to provide seventh freedom rights for scheduled and charter all-cargo services by replacing Annexes I and II of the Agreement with the Annexes set out as an enclosure to this note.

If the foregoing is acceptable to the Government of the Grand Duchy of Luxembourg, I would appreciate an affirmative note in reply from Your Excellency, which, together with this Note and its enclosure, shall constitute an agreement between the two governments. In

His Excellency

Alphonse Berns,

Ambassador of the Grand Duchy of Luxembourg.

addition, I have the honor to propose that the terms of this Amendment shall be provisionally applied from the date of Your Excellency's note in reply and shall enter into force upon a subsequent exchange of diplomatic notes indicating that all internal procedures have been completed.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

A handwritten signature in black ink, appearing to read "Dan March", followed by a horizontal line.

Enclosure: As stated.

Annex I

Scheduled Air Transportation

Section 1 Routes

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, be entitled to perform scheduled international air transportation between points on the following routes:

A. Routes for the airline or airlines designated by the Government of the United States of America:

1. From points behind the United States via the United States and intermediate points to a point or points in Luxembourg and beyond.
2. For all-cargo service or services, between Luxembourg and any point or points.

B. Routes for the airline or airlines designated by the Government of the Grand Duchy of Luxembourg:

1. From points behind Luxembourg via Luxembourg and intermediate points to a point or points in the United States and beyond.
2. For all-cargo service or services, between the United States and any point or points.

Section 2 Operational Flexibility

Each designated airline may, on any or all flights and at its option:

1. Operate flights in either or both directions;
2. Combine different flight numbers within one aircraft operation;
3. Serve behind, intermediate, and beyond points and points in the territories of the Parties on the routes in any combination and in any order;
4. Omit stops at any point or points;

5. Transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes; and
6. Serve points behind any point in its territory with or without change of aircraft or flight number and may hold out and advertise such services to the public as through services;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that, with the exception of all-cargo services, the service serves a point in the territory of the Party designating the airline.

Section 3 Change of Gauge

On any segment or segments of the routes above, any designated airline may perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, with the exception of all-cargo services, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airlines is a continuation of the transportation from beyond such point.

ANNEX II

Charter Air Transportation

Section 1

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, have the right to carry international charter traffic of passengers (and their accompanying baggage) and/or cargo (including, but not limited to, freight forwarder, split, and combination (passenger/cargo) charters):

a. Between any point or points in the territory of the Party that has designated the airline and any point or points in the territory of the other Party; and

b. Between any point or points in the territory of the other Party and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to the homeland for the purpose of carrying local traffic between the homeland and the territory of the other Party.

In the performance of services covered by this Annex, airlines of each Party designated under this Annex shall also have the right to: (1) make stopovers at any points whether within or outside of the territory of either Party; (2) carry transit traffic through the other Party's territory; and (3) combine on the same aircraft traffic originating in one Party's territory, traffic originating in the other Party's territory, and traffic originating in third countries; and (4) to perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, except with respect to cargo charters, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

Each Party shall extend favorable consideration to applications by airlines of the other Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.

Section 2

Any airline designated by either Party performing international charter air transportation originating in the territory of either Party, whether on a one-way or round-trip basis, shall have the option of complying with the charter laws, regulations, and rules either of its homeland or of the other Party. If a Party applies different rules, regulations, terms, conditions, or limitations to one or more of its airlines, or to airlines of different countries, each designated airline shall be subject to the least restrictive of such criteria.

However, nothing contained in the above paragraph shall limit the rights of either Party to require airlines designated under this Annex by either Party to adhere to requirements relating to the protection of passenger funds and passenger cancellation and refund rights.

Section 3

Except with respect to the consumer protection rules referred to in the preceding paragraph above, neither Party shall require an airline designated under this Annex by the other Party, in respect of the carriage of traffic from the territory of that other Party or of a third country on a one-way or round-trip basis, to submit more than a declaration of conformity with the applicable laws, regulations and rules referred to under Section 2 of this Annex or of a waiver of these laws, regulations, or rules granted by the applicable aeronautical authorities.



AMBASSADE DU GRAND-DUCHÉ
DE LUXEMBOURG

2200 MASSACHUSETTS AVENUE, N. W.

WASHINGTON, D. C. 20008

TEL: (202) 265-4171

FAX: (202) 328-8270

July 21, 1998

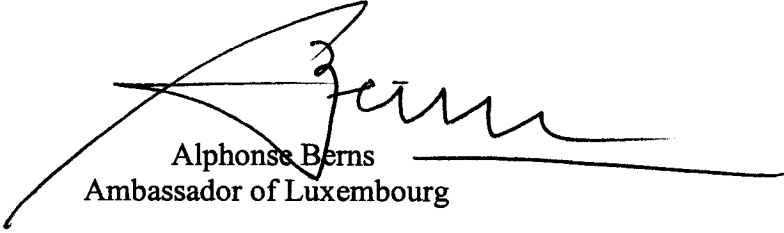
Dear Madame Secretary:

I have the honor to refer to the air transport agreement between the Government of the Grand Duchy of Luxembourg and the Government of the United States of America, signed in Luxembourg on August 19, 1996, as amended by an exchange of notes in Washington dated June 6, 1995 ("The Agreement").

I have the further honor to acknowledge receipt of your letter dated July 13, 1998 by which it is suggested that the Agreement be further amended to provide seventh freedom rights for scheduled and charter all-cargo services by replacing Annexes I and II of the Agreement with the Annexes set out as an enclosure to said-letter.

On behalf of the Government of the Grand Duchy of Luxembourg, I hereby confirm that the suggested amendment is acceptable to the Government of Luxembourg. I am in agreement with the suggestion that your note of July 13, 1998 as well as the present note and its enclosure shall constitute an Agreement between the two Governments. I am further in agreement with the suggestion that the terms of this amendment shall be provisionally applied from the date of this present note and shall enter into force upon a subsequent exchange of diplomatic notes indicating that internal procedures have been completed.

Accept, Dear Madame Secretary, the renewed assurances of my highest consideration.



Alphonse Berns
Ambassador of Luxembourg

The Honorable
Madeleine Albright
The Secretary of State
United States Department of State

Enclosure: as stated

DEPARTMENT OF STATE
WASHINGTON

July 13, 1998

Excellency:

I have the honor to refer to the Air Transport Agreement between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg, signed at Luxembourg August 19, 1986, as amended by an exchange of notes at Washington dated June 6, 1995 ("The Agreement").

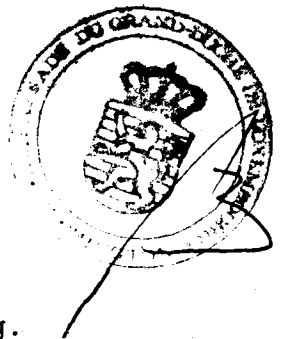
I have the further honor to propose to Your Excellency that the Agreement be further amended to provide seventh freedom rights for scheduled and charter all-cargo services by replacing Annexes I and II of the Agreement with the Annexes set out as an enclosure to this note.

If the foregoing is acceptable to the Government of the Grand Duchy of Luxembourg, I would appreciate an affirmative note in reply from Your Excellency, which, together with this Note and its enclosure, shall constitute an agreement between the two governments. In

His Excellency

Alphonse Berns,

Ambassador of the Grand Duchy of Luxembourg.

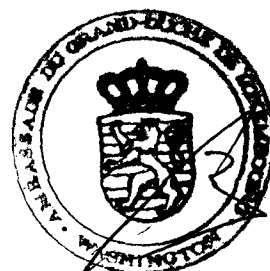


addition, I have the honor to propose that the terms of this Amendment shall be provisionally applied from the date of Your Excellency's note in reply and shall enter into force upon a subsequent exchange of diplomatic notes indicating that all internal procedures have been completed.

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For the Secretary of State:

Enclosure: As stated.



Annex I

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1. From points behind the United States via the United States and intermediate points to a point or points in Luxembourg and beyond.
2. For all-cargo service or services, between Luxembourg and any point or points.

B. Routes for the airline or airlines designated by the Government of the Grand Duchy of Luxembourg:

1. From points behind Luxembourg via Luxembourg and intermediate points to a point or points in the United States and beyond.
2. For all-cargo service or services, between the United States and any point or points.

Section 2 Operational Flexibility

Each designated airline may, on any or all flights and at its option:

1. Operate flights in either or both directions;
2. Combine different flight numbers within one aircraft operation;
3. Serve behind, intermediate, and beyond points and points in the territories of the Parties on the routes in any combination and in any order;
4. Omit stops at any point or points;

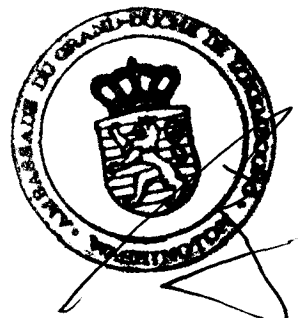


5. Transfer traffic from any of its aircraft to any of its other aircraft at any point on the routes; and
6. Serve points behind any point in its territory with or without change of aircraft or flight number and may hold out and advertise such services to the public as through services;

without directional or geographic limitation and without loss of any right to carry traffic otherwise permissible under this Agreement; provided that, with the exception of all-cargo services, the service serves a point in the territory of the Party designating the airline.

Section 3 Change of Gauge

On any segment or segments of the routes above, any designated airline may perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, with the exception of all-cargo services, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airlines is a continuation of the transportation from beyond such point.



ANNEX II

Charter Air Transportation

Section 1

Airlines of each Party designated under this Annex shall, in accordance with the terms of their designation, have the right to carry international charter traffic of passengers (and their accompanying baggage) and/or cargo (including, but not limited to, freight forwarder, split, and combination (passenger/cargo) charters):

a. Between any point or points in the territory of the Party that has designated the airline and any point or points in the territory of the other Party; and

b. Between any point or points in the territory of the other Party and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to the homeland for the purpose of carrying local traffic between the homeland and the territory of the other Party.

In the performance of services covered by this Annex, airlines of each Party designated under this Annex shall also have the right to: (1) make stopovers at any points whether within or outside of the territory of either Party; (2) carry transit traffic through the other Party's territory; and (3) combine on the same aircraft traffic originating in one Party's territory, traffic originating in the other Party's territory, and traffic originating in third countries; and (4) to perform international air transportation without any limitation as to change, at any point on the route, in type or number of aircraft operated; provided that, except with respect to cargo charters, in the outbound direction, the transportation beyond such point is a continuation of the transportation from the territory of the Party that has designated the airline and, in the inbound direction, the transportation to the territory of the Party that has designated the airline is a continuation of the transportation from beyond such point.

Each Party shall extend favorable consideration to applications by airlines of the other Party to carry traffic not covered by this Annex on the basis of comity and reciprocity.



Section 2

Any airline designated by either Party performing international charter air transportation originating in the territory of either Party, whether on a one-way or round-trip basis, shall have the option of complying with the charter laws, regulations, and rules either of its homeland or of the other Party. If a Party applies different rules, regulations, terms, conditions, or limitations to one or more of its airlines, or to airlines of different countries, each designated airline shall be subject to the least restrictive of such criteria.

However, nothing contained in the above paragraph shall limit the rights of either Party to require airlines designated under this Annex by either Party to adhere to requirements relating to the protection of passenger funds and passenger cancellation and refund rights.

Section 3

Except with respect to the consumer protection rules referred to in the preceding paragraph above, neither Party shall require an airline designated under this Annex by the other Party, in respect of the carriage of traffic from the territory of that other Party or of a third country on a one-way or round-trip basis, to submit more than a declaration of conformity with the applicable laws, regulations and rules referred to under Section 2 of this Annex or of a waiver of these laws, regulations, or rules granted by the applicable aeronautical authorities.

